

Torrance, California
May 14, 1952

MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE CITY COUNCIL OF
THE CITY OF TORRANCE.

The City Council of the City of Torrance convened in an Adjourned Regular Meeting in the Council Chamber of the City Hall on Wednesday, May 14, 1952, at 8:00 P.M., Mayor Schwab presiding.

Those responding to roll call were : COUNCILMEN: Benstead, Blount, Drale, Spelman and Schwab. Also present were City Manager Stevens and City Attorney Hall.

Councilman Blount led all present in the salute to our Flag.

This being an adjourned regular meeting to continue the hearing on the Seaside Heights Sewer District, continued from April 23, 1952, Councilman Spelman moved the regular order of business be dispensed with. Motion, seconded by Councilman Blount, carried.

Clerk Bartlett read a letter from Barnett, Hopen & Smith, Civil Engineers, transmitting a detailed report of the expenses incurred in the completion of the Seaside Heights Sewer project, copies of which report had been furnished each homeowner in the district. The Mayor then called for oral comment.

Mr. Robert Reeser, of 5269 Bindewald Road, asked several questions regarding the sewer line which were answered by Mr. Patrick with the aid of a map showing the location of the line. Mr. Reeser's main objection was to the placing of manholes and the encasing of the line which, he claimed, was to benefit someone else; and that if someone else is to benefit from the Seaside Heights Sewer, they should help pay for it.

Mr. Barnett stated that the land in question, in its present condition, is not benefited by the sewer; that the assessment has to be made on an estimated benefit to the land as it is now; that the land in question could be filled at a future time and at that time would benefit, but at the present time it is too low to derive any benefit from the sewer; that the parcel of land in question could not have been assessed even if the City had not accepted an easement on the condition of no assessment.

Mr. Reeser asked why it was then made possible for these people to take advantage of the line by the Ys installed and was told by Mr. Barnett it was just good engineering practice to put in Ys. Mr. Reeser's reply was : "Then you are being a 'good-time Charlie' for everybody in the country at our expense".

Mr. Barnett stated: " There is some room for criticism there but it is good engineering practice to put those Ys in. The cost of the Ys is included in the unit price per lineal foot of sewer", that there was a benefit to anyone going in there; but, at the same time, the land could not be assessed because it cannot be used now.

Mr. Reeser commented on the price of \$4.50 for concrete encasement and Mr. Patrick explained that the encasement bids ran from \$2 per foot to \$5, but that bids are not let on individual items but on the lowest over-all figure; that the job has to be given as a whole item.

In answer to inquiry by Mr. Reeser, Mr. Barnett explained that the contractor, in preparing his bid, has no knowledge of such incidental expenses; that it is not a part of his work and is never included in a contractor's bid under a 1911 Act job; that the 1911 Act provides certain procedure which doesn't permit the inclusion of that work in the contractor's bid.

Mr. Reeser stated the people did not know this sewer modification was going to take place and had no chance to protest; that they couldn't attend every Council meeting; that his information from the State was that no one from the State had asked for the encased pipe; if it could be protected with dirt, why use concrete encasement?

Mr. Patrick replied that Mr. Storm had been the inspector for the State and that the State had asked for 48 feet of extra strength pipe along the State Highway where the line was at a shallow depth where we went under a culvert; that this was to insure the pipe from becoming cracked.

Mrs. Reeser asked: " What about the \$5.90 we were to be charged, and you told us it would be less than that?", to which Mr. Patrick replied that he believed he had told her he did not know how much it would be.

Mr. Reeser asked if it wouldn't be fair to assess the people benefiting from the sewer the full valuation of their land, to which Mr. Stevens replied that the only way the City could get the easement was on the understanding that the Dolley property would not be assessed; that the only other way to get a sewer into the district would have been to go up the highway at a depth of about 34'; that they would still have had to obtain an easement from the Dolleys; and that such a route would have cost the district more than the route used; that the City did not feel there was time to go into a lengthy condemnation suit to force an easement because of the serious condition of the cesspools; that the easement would not have been granted on any other conditions; that hearings had been held; that the diagram and estimate had been presented and that the people had been sent notices of the hearing, mailed in accordance with the law; that the area had been posted.

Mr. Reeser replied that he had received no notice and had seen no posted sign. Those in the audience from the district were in accord with his statement. Mr. Reeser stated he would like to see the pipe line opened up and see for himself that it is encased. He was advised that he could dig down, or "rod it", and check it from manhole to manhole.

Mr. Frank Callahan, 5245 Bindewald, asked that Resolution No. 2172, relating to the modification, be read, and this was done by Clerk Bartlett. Mr. Callahan then stated that if publication had only been made once in the Torrance Herald, "it might just as well have been in a Polish newspaper" and that some notice should have been sent to the people in the district.

Mr. Stevens requested that Mr. Patrick explain why the modification was necessary and this was done with the use of a map. Mr. Stevens then stated he thought the people should realize two things --when they hoped for easements were unobtainable, it meant abandon the project or go around; that the City felt the project was important enough not to be abandoned and went ahead on the best terms they could make.

Mr. James Hunter, 5028 Macafee Road, protested the encasement stating that the City had a 10' easement and could have protected the pipe with a mound of dirt. Mr. Patrick explained that the easement was to construct and maintain a sewer line; that the ground above does not belong to the City. Mr. Stevens explained that it was a matter of safety and engineering practice; that a storm could come up and wash all the dirt away. Mr. Reeser stated that there is a mound of dirt over the encased line, and was told that was normal practice to give it extra protection.

AGA280

Mr. Lefler, 5248 Zakon Road, asked: "How is it that we are being charged for that sewer while other people are getting it for a gift? How is that allowed to happen? Other people are going to benefit from that sewer line. For the moment, I am not tied on to that sewer line and the way I see it there will be a lot of us who can't afford to tie on. Why not everybody share the load? If one doesn't have to pay, why should another?"

Mr. A. F. Lebrons, 5261 Zakon Road, asked why the easements weren't obtained before the contract was let, to which Mr. Patrick replied that they were. Mr. Lebrons then asked "Why the modification?" and Mr. Stevens advised that the contract had not been awarded at the time the revision in plan had to be made.

Mrs. Reeser asked if the State Board of Sanitation had requested the encasement and Mr. Patrick advised her it had been requested by the County Sanitation District, of which the City is a member. Mr. Reeser asked if that was controlled by the County Board of Health and was advised they were separate organizations, the County Sanitation District being in charge of all sewage lines.

Mr. Hunter asked if it was compulsory to encase the pipe and Mr. Patrick said it was necessary to protect the pipe but that he was not compelled to.

Mr. James Taylor, 5259 Doris Way, asked if there wasn't a proposed high school going in there and was advised the school would be in another area. Mr. Taylor then asked why the sewer could not have come down Roberts Road and around, to which Mr. Patrick replied that that would have been more costly because of excessive cuts and that it would have been necessary to take up 2 lanes of State Highway, and the State would only permit the taking up of 1 lane.

Mr. Robert Wagstad stated: "It was stated that the reason that the property along the easement isn't assessed is because they are not benefited by the sewer at present, yet Ys have been put in so that they will benefit later. Yet other people in the district haven't hooked in and are not benefiting yet there is a Y and they can benefit and so they are assessed. That Y wasn't put in there to fill up space. Straight pipe is cheaper than Ys. Somebody has been helping somebody out along the way."

Councilman Drale asked how many Ys were in the easement and Mr. Patrick replied 33.

Mr. Charles Austin, of Macafee Road, asked what the deepest point was in coming down 101 and Mr. Patrick replied about 23'. Mr. Austin then asked why the sewer didn't come out Macafee Road and Mr. Patrick advised him that that is where they had wanted to put the sewer but certain land owners refused to give an easement.

Mr. Reeser asked if there was any way the assessment could be broken down and assessed per front foot, stating he did not think it fair to bill everyone the same.

City Attorney Hall replied that there are two ways of assessing -- (1) on an equalized basis on a scale to equally distribute the benefit and (2) on a front footage basis.

Mr. Barnett stated that if the Council ordered, the assessment could be modified; that he could make a new assessment by a different method; that if some were lowered, others would be correspondingly increased; that he had made what he thought was the most fair and equitable assessment.

Mrs. Slater stated that upon such line of reasoning, a 6-room house would be taxed the same as a 2-room house; that she believed people, when buying property, realized that if the frontage was large their taxes would be higher than the man who only had a small strip.

The conditions of the easement were asked to be read and recess was declared at 9:10 P.M. to allow the Clerk time to get the original easement. Meeting reconvened at 9:30 and Clerk Bartlett read the covenants contained in the easement granted by the Dolleys.

Mr. Trimmer stated he believed there was something called "eminent domain" and that "surely you could have forced an easement through there and then compensated the people through some sort of hearing for damage done. I don't believe any steps were made." City Attorney Hall explained that "eminent domain proceedings" was the same as the "condemnation proceedings" previously mentioned by Mr. Stevens and that the City felt there was not time to go through such procedure.

Councilman Drale stated that because of the condition of the cess-pools, the matter was considered urgent, to which Mr. Trimmer replied that that was something else he couldn't understand: that his cess-pool collapsed 3 days after he was in the house; that his wasn't the only one; that some collapsed before people moved in; others collapsed with people standing on top of them; that no septic tanks were installed.

Mr. Wagstad asked why the Ys were put in along the Dolley easement, stating: "Let him break the pipe open and put in the Ys later. It just looks funny. It shows that somebody knew there was something to be built there."

Councilman Benstead asked how much more it cost to put in the Ys than if straight pipe had been used. Mr. Patrick advised the price of the Y ran \$3.75 or \$4.00; that there are 33 additional Ys and at \$4 each the additional cost was only \$132.00; that the most ever allowed to hook onto a Y is two houses.

Mr. Wagstad stated: "Regardless of the price, what was the idea of putting them in? You have stated all along that you don't know about future developments. They were put there for a purpose. It looks like somebody is getting a pay-off someplace."

Mr. Patrick replied: "I don't like that word. We put in Ys on the State highway, too, because someday it might be developed and the Ys would be available. It is the customary method of doing it."

Mr. Hunter stated that the conditions of the easement just read did not specify that the line had to go in such a zig-zag fashion to which Mr. Patrick replied that the City Clerk had read the covenants, not the description of the easement, and that the description of the easement determines where the City can go and that that was the only way in which the easement could be obtained. Mr. Hunter asked who approves such easements and Mr. Patrick explained the procedure. Mr. Hunter replied that the Council couldn't have been aware of the zig-zag fashion of such an easement.

Councilman Spelman stated this had been the cheapest way in which to service the district, to which Mr. Patrick added facts and figures as to the additional line which would have had to been laid, additional manholes, etc.

Mrs. Slater asked what kind of an offer had been made the property owners on Macafee Road who had refused the easement. Mr. Patrick replied that, for one thing, he had offered to connect them to the sewer free of charge; but that even if these easements had been given, the line would still have had to cross Dolley property.

Councilman Drale asked if the Council could make the original bid of \$65,000 "stick" and City Attorney Hall replied: "No, it is on a unit basis."

Mr. Faulker, of 5251 Zakon Road stated that 3 weeks ago he had asked to see the original contract and had been shown a signed contract giving the amount as \$65,000 and now was told that that was only a proposed bid.

Councilman Drale asked "What good are bids if you can elevate the price any time you want to?" City Attorney Hall replied: "Generally you solicit a bid for a certain job at a certain price. On assessment jobs, they don't bid on a total figure but on a unit figure. If it is asphalt, they bid so much a yard; whatever it comes to is what you pay." Councilman Drale stated: "You know the exact number of feet in the subdivision and you should know the number of feet of pipe. Mr. Hall explained that he merely was explaining the type of contract; that this particular matter was one of engineering and that the unit price on the original bid and on the completed figure was the same."

Mr. Barnett explained that "the quantities shown on the bid forms were tabulated from the original plans. Subsequently the plans were modified but the bid form was not changed. The bids were unit price bids and the award of the contract was made on the unit price, and the total contract price was not mentioned therein."

Mr. E. E. Ryckman, 5229 Bindewald, asked the date the modification was approved by the Council and was told April 24, 1951. He then stated that as the bid was received June 12th, the contractor should have known what he was bidding on.

Mayor Schwab stated that according to the report, written protests represented 5.8% of the residents and asked the wishes of the Council. City Attorney Hall advised the hearing could either be closed or the Council could suggest changes; that if changes were

AGA250

suggested at this stage, the City would have to pay for it. Councilman Blount stated: "As I see it, we have two choices -- we must declare the hearing closed and recommend new changes or we must pass this resolution and the matter is closed." Councilman Drale stated "I am not satisfied with the difference between \$65,000 and \$82,000 on the bid." Councilman Blount asked what he suggested to remedy the situation and Councilman Drale said he thought the Council should have a written recommendation from the City Attorney advising just how legal the bid is as awarded and whether it is unit or fixed. Councilman Blount stated there was no question about that -- it was a unit price bid; that as he saw it, if the contractor who got the job did just what the original bid said, and stopped there, there would not have been a sewer; that the sewer as completed used more lineal feet of pipe than the original bid.

Councilman Blount asked if it was common practice to let bids on the different items involved and let separate contracts to the lowest bidder on each unit. Mr. Patrick replied "no". Mr. Barnett amplified the statement by saying that contractors would not bid on it in that fashion because of bonding and that it would be impractical for 14 contractors to each bring in their equipment and crews to do each different part. Mr. Stevens advised the City follows the accepted practice in this type of work; that it is the total price that counts.

Councilman Drale stated he felt the Council and the Engineer should get together and find out exactly what was to be done as the matter, in his opinion, needed more study.

Mr. Stevens stated: "It should be clear to everybody that the contract price wasn't \$82,000 -- it was \$75,000, and the incidentals are never bid on by the contractor. The amount of work spent by the engineers on the job is charged, rightly, to that job and nothing else; when you send a survey crew out, it is charged to that job because they are working only on that job. Nothing else is charged to it -- no overhead in the office or anything else."

Mr. Hunter stated that he was not trying to "stick the contractor"; that he believed he had lived up to his bargain; that all of the extras have come out of the City and those benefit should pay their share. He asked if it was possible for the City to share the load, and be reimbursed by the developer when the parcel in question is subdivided.

Councilman Drale stated that is what he meant when he suggested the matter receive further study; that there was a possibility of assessing the people when the subdivision goes in and that possibly there would be a loop-hole in the easement; but that that was something that could not be decided tonight and would require study. City Attorney Hall stated it was more a question of facts rather than of law and that he would have to check the facts as to what the adjoining property is.

Following further discussion as to what the Council should do at this time, City Attorney Hall stated the hearing could be closed and the meeting adjourned, or continued to another time for hearing of appeals and making corrections.

Councilman Spelman explained to the audience that the Council would have to consider its action very carefully because if any change was made in the assessment, a precedent would be set and other districts would then be entitled to the same consideration.

Mr. Hunter replied that the line belongs to the City and he could see nothing wrong with the City bearing part of the "load".

Meeting recessed at 10:30 and reconvened at 10:37.

Councilman Blount stated: "We have had approximately 14 hours of meetings on this problem; we have resolved ourselves to a point where we believe that the people have a protest that is fair and equitable; we have resolved ourselves to the problem of where we are going to try and do something to lower the assessments; the only way that can be done is when others participate in the cost. Mr. Drale informs me that there is a tract map before the Planning Commission in the immediate area of which we speak, wholly within the district. The Planning Commission meets on the 21st. After the action taken by them, the Council meets in regular session on the 27th. If the Planning Commission approves this map, and we pass it, then we have a concrete situation on which to act. I

hereby move that this hearing be continued to Wednesday night, June 4th, three weeks from tonight, at 8:00 o'clock for the purposes I have heretofore stated." Motion, seconded by Councilman Spelman, carried.

City Attorney Hall advised the Council that the City Treasurer would be required to obtain an attorney to represent her in the mandamus action which the City is filing; referring to Bond issue M.W.D. #3; that ordinarily the City Attorney represents all of the officers of the City but in this case he could not represent the City against the City Treasurer and at the same time represent her. He suggested the City Treasurer suggest her choice of an attorney and receive proper authorization for such employment from the Council. City Treasurer Leech recommended Mr. Donald Armstrong as her counsel. Councilman Spelman moved the Council concur in the recommendation. Motion, seconded by Councilman Benstead, carried unanimously by roll call vote.

At 10:45 P.M., on motion of Councilman Blount, seconded by Councilman Spelman, meeting adjourned until June 4th.


CITY CLERK OF THE CITY OF TORRANCE

APPROVED:


MAYOR OF THE CITY OF TORRANCE

AGA280